

Message Text

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ACTION L-03

INFO OCT-01 IO-10 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07

NSAE-00 NSC-05 PA-02 PRS-01 SP-02 SS-15 USIA-15 AF-06

ARA-10 EA-09 EUR-12 NEA-10 OMB-01 /115 W

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FM USMISSION USUN NY

TO SECSTATE WASHDC 2461

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UNCLAS USUN 4645

E.O. 11652: N/A

TAGS: UN, PFOR, ILC

SUBJECT: UNGA LEGAL COMITE: SUCCESSION OF STATES IN RESPECT
OF TREATIES

SUMMARY: DEBATE ON SUBJECT ITEM BEGAN PM MON SEPT 29.
INTERVENTIONS WERE MADE BY POLAND, US, FRG, AUSTRALIA, BRAZIL,
SWEDEN, UKRAINE, ARGENTINA, GDR, GHANA AND COLOMBIA. AT END
OF MEETING DEBATE ON ITEM WAS SUSPENDED UNTIL AFTER COMPLETION
DEBATE ON UNCITRAL ITEM. DEBATE LIKELY TO RESUME OCT 7 OR 8,
JOINTLY WITH INCEPTION DEBATE ON ILC REPORT. END SUMMARY.

1. POLISH DEL (KLAFFKOWSKI) EXPRESSED SATISFACTION WITH ILC
TEXT, AND REFERRED IN GENERAL TO HIS GOVERNMENT'S WRITTEN
OBSERVATIONS ON SUBJECT. HE FOUND DRAFT ARTICLES BALANCED
AND A GOOD BASIS FROM WHICH TO ELABORATE A CONVENTION AT A
DIPLOMATIC CONFERENCE. THESE PROVISIONS REQUIRING FURTHER
DISCUSSION (SETTLEMENT OF DISPUTES AND MULTILATERAL TREATIES
OF A UNIVERSAL CHARACTER) COULD BE DISCUSSED FURTHER AT THE
DIPLOMATIC CONFERENCE.

2. US COMPLIMENTED ILC ON ITS WORK AND REFERRED TO US
COMMENTS CONTAINED IN A/10198. USDEL MADE PARTICULAR
REFERENCE TO (A) US DISAGREEMENT WITH ARTICLE 7, NONRETRO-
ACTIVITY; (B) US ARGUMENTS AGAINST ANY REFERENCE TO
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"MULTILATERAL TREATIES OF A UNIVERSAL CHARACTER"; AND

(C) STRONG US PREFERENCE FOR INCLUSION OF SETTLEMENT OF DISPUTE PROVISION, PREFERABLY INVOLVING ICJ, OR AT LEAST PROVIDING ARBITRATION CONCILIATION PROCEDURE PER VIENNA CONVENTION ON LAW OF TREATIES. US CONCLUDED TEXT APPEARED READY FOR SUBMISSION TO A DIPLOMATIC CONFERENCE IN 1976 OR 1977. FULL TEXT US STATEMENT POUCHED L/UNA-STOWE AND L-DALTON.

3. FRG DEL REFERRED TO ITS WIRTEN OBSERVATIONS IN A/10198/ADD.1 AND CONSIDERED ILC TEXT GOOD BASIS FOR CONTINUED WORK. FRG FAVORED RETURNING TEXT TO ILC TO CONSIDER OUTSTANDING ISSUES OF SETTLEMENT OF DISPUTE PROVISION, AND ALSO CONSIDERED FINAL ELABORATION OF TEXTS SHOULD OCCUR ONLY AFTER ILC COMPLETED WORK ON SUCCESSION OF STATES ON MATTERS OTHER THAN TREATIES.

4. AUSTRALIAN DEL CONSIDERED TEXT GOOD BALANCE OF CLEAN SLATE AND SELF-DETERMINATION PRINCIPLES. HE STATED STRONG VIEW OF HIS GOVERNMENT THAT APPLICATION OF ARTICLES SHOULD NOT RPT NOT BE RETROACTIVE. DRAWING ON AUSTRALIAN EXPERIENCE, HE STATED A RETROACTIVE CONVENTION ON SUBJECT COULD RAISE DIFFICULT QUESTIONS WITH RESPECT AUSTRALIA'S TREATY RELATIONS, SINCE POST-COLONIAL AUSTRALIA HAS REMAINED PARTY TO SOME IMPERIAL TREATIES WITHOUT EVER HAVING SPECIALLY INDICATED ADHERENCE THERETO.

5. BRAZILIAN DEL (SETTE CAMARA) STATED IT WOULD BE INADVISABLE RETURN DRAFT ARTICLES TO ILC, WHICH HAS EXHAUSTED ITS CONSIDERATION OF MATTER. HE RECOMMENDED SETTLEMENT OF DISPUTE MECHANISM AND QUESTION OF MULTILATERAL TREATIES OF UNIVERSAL CHARACTER BE CONSIDERED BY THE FORUM WHICH FINALLY ELEBORATES THE TEXT.

6. UKRAINIAN DEL PRAISED ILC TEXT CLEAN SLATE APPROACH AND SPECIALLY APPROVED OF DRAFT ARTICLES CONCLUSION THAT SUCCESSION OF STATES DID NOT UPSET BOUNDARY REGIMES. SHE FOUND LUCUNA IN THAT TEXT DID NOT TREAT SUCCESSION IN CASES OF REVOLUTION. ALLUDING TO ISSUES RAISED BY OTHER DELS, SHE STATED ILC SHOULD ONCE AGAIN EXAMINE TEXT IN LIGHT OF ADDITIONAL GOVERNMENT COMMENTS. COMMENT: THIS IS COMPLETE SHIFT UNCLASSIFIED

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FROM PREVIOUS SOV DESIRE TO HAVE COMITE BEGING WORK ON CONVENTION ASAP.

7. ARGENTINE DEL (GOBBI) FOUND TEXT GENERALLY ACCEPTABLE AND APPROPRIATE FOR CONSIDERATION BY A DIPLOMATIC CONFERENCE, WHICH COULD ALSO RESOLVE OUTSTANDING ISSUES OF DISPUTE SETTLEMENT AND MULTILATERAL TREATIES PROVISION.

8. GDR DEL CONSIDERED TIME WAS NOT RIPE FOR A DIPLOMATIC CONFERENCE ON THIS SUBJECT, AND ILC SHOULD RECONSIDER DRAFT ARTICLES IN LIGHT GOVERNMENT COMMENTS.

9. GHANIAN DEL, AFTER REVIEWING VARIOUS PROVISIONS OF TEXT, STATED HE WOULD NOT OBJECT TO ILC REVIEWING TEXT ONCE MORE, WITH A VIEW TO CONVENING A DIPLOMATIC CONFERENCE.

10. COLOMBIAN DEL MADE A PLEA TO GOVERNMENTS TO SUBMIT MORE COMMENTS ON TEXTS SO THAT IN DUE COURSE A DIPLOMATIC CONFERENCE COULD BE CONVENED AFTER THE ILC HAD REVIEWED THE TEXT IN THE LIGHT OF SUCH COMMENTS.

11. AT END OF MEETING, CHAIRMAN (NJENGA) SUSPENDED DEBATE ON ITEM SO THAT UNCITRAL CHAIRMAN COULD OPEN DEBATE ON UNCITRAL AT NEXT MEETING AM SEPT 30. AFTER CONCLUSION UNCITRAL ITEM, DEBATE ON SUCCESSION OF STATES WILL BE RESUMED JOINTLY WITH DEBATE ON REPORT OF ILC.

12. IN PRIVATE INFORMAL CONVERSATION AFTER MEETING ON WORK OF ILC IN GENERAL, NJENGA (CHAIRMAN) AND OTHERS SPOKE FAVORABLY ABOUT WORK OF ILC AND SINGLED OUT SEMINARS RUN BY ILC AS ONE OF THE NOTEWORTHY BENEFITS MANY DEVELOPING COUNTRY LAWYERS DERIVE FROM COMMISSION.

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